

REMARKS

By this submission, previously pending claims 2, 3, 7, 22-24, 28 and 29 are amended, and claims 1, 4-6, 8-21 and 25-27 remain withdrawn without prejudice. Also new independent claims 30 and 33 and new dependent claims 31, 32, 34 and 35 are submitted for introduction. No new matter is introduced by the now submitted amendments or new claims.

It is requested in view of now submitted amendments and the following discussions that all rejections reported in the outstanding Office action be reconsidered and not repeated in any further action issued for this application.

Election/Restrictions

It is reported in the action that the restriction requirement set out in the March 16, 2006 action is “still deemed proper and is therefore under FINAL.” This decision to make the decision final is not traversed; though, the grounds for traversal set out in the April 17, 2006 filed reply are maintained.

It is requested that the Examiner reverse the withdrawing of claim 22. This claim, by an error, was amended by the reply filed April 17, 2006 to be dependent from non-elected claim 1. Prior to the amendment, claim 22 already was dependent from claim 1. By a typographical error this claim was amended to delete dependency from claim 28 and insert dependency from claim 1. Since claim 28 was a new claim submitted by the April 17th filing, it was not feasible for the subject claim previously to have been dependent from claim 28. The correct dependency amendment for claim 22 now is submitted, i.e., claim 22 is to be dependent from elected claim 28. Accordingly, it is requested that the withdrawing of claim 22 by the Examiner now be reversed.

With respect to new claims 30-35, the independent claims 30 and 33 recite a combined dual stent structure or use of such composite structure that are within the prior selected “Species A” election. Claims 31, 32, 34 and 35 are dependent from claims 30 and 33 respectively and

recite limitations for the first or outer and second or inner stents; namely, that the first or outer stent is bioabsorbable and that the second or inner stent is a self-expanding metal stent. As such it is submitted that the new claims are within the elected species. It also is submitted that for the reasons discussed below the new claims are in condition for allowance.

Claim Rejections – 35 USC §102

Rejections under 35 USC §102(e) are reported in the Office action as being directed to claims 2, 3, 7, 23, 24, 28 and 29 as being anticipated by U.S. Patent Application Publication Number 2003/0074049 (Hoganson et al.). These reported rejections are believed to be overcome in view of now submitted amendments and the following discussions.

The two rejected independent structure claims, i.e., claims 23 and 28, now recite a “composite stent” structure comprising two stent structures, one within the other. The rejected independent method claim, i.e., claim 29, recites steps for use of a “composite stent structure including an inner stent..., said inner stent being within an outer stent.” These recitations, it is submitted, are not suggested or inherent from Hoganson et al. disclosures, and, therefore, it is submitted that claimed subject matter distinguishes over Hoganson et al. (See, MPEP §706.02)

Support from the filed specification for the now submitted amendments include the following disclosures that are directed to Figs. 3 and 4, the elected species.

Referring to Figure 3, according to an embodiment of the invention, a composite stent 301 includes an outer bioabsorbable mesh or similar stent element 302 affixed to a fully covered inner self-expanding metal stent (SEMS). Suitable outer bioabsorbable or biodegradable stents are typically made from a bioabsorbable polymer. Polymer structures typically have a higher potential to creep (i.e., experience permanent deformation and fail to return to an original shape and/or size when released) if held in a constrained condition while in the delivery system. The potential for creep in the outer element may increase with temperature elevation such as in sterilization. The fully covered SEMS will self-expand to SEMS as shown in Figure 4 so that the

combined structure 401 (including bioabsorbable mesh 402) overcomes any loss in recovered diameter. While some bioabsorbable shape memory polymers may minimize creep, the instant composite stent design simplifies the bioabsorbable material demands. Another advantage of the present invention is that the outer element is not required to support the lumen walls by itself. The inner element may assist the outer element in this respect. Therefore, the outer element may have a lower profile, such as a smaller diameter filament or a flat filament. Through the interaction of the inner element and the outer element the final body lumen diameter, with the stent in place, will have a larger diameter. (Emphasis added, specification paragraph 0038).

Thus the embodiment shown in Figs. 3 and 4 can include an inner stent and an outer stent. These stents can be an “inner self-expanding metal stent (SEMS)” and an “outer bioabsorbable or biodegradable stent[].”

In contradiction to the combined twin stents recited in the pending claims, Hoganson et al. disclose “a covered stent comprising an outer element (22) open at opposite ends having an outer surface engagable with the inner surface of a body lumen.” (Office action, section 4) Hoganson et al. do not disclose or suggest any composite stent including a pair of stents, one within the other. Instead, the Hoganson et al. “covered stent” includes a covered stent 10 and a cover 22 that “is preferably an elastic material which can be expanded as the stent is expanded” (Hoganson et al., para. 0067) This cover 22 is not disclosed as providing any support for lumen walls, but instead is disclosed as having an elastic nature “that after expansion ... has low residual stress to prevent the material from tearing or prematurely degrading due to residual stress.” (Hoganson et al., para 0068) Therefore, the Hoganson et al. cover 22 indeed does not provide lumen wall support but must instead be selected and constructed so as to not apply so much stress against the covered stent 10 as to cause the cover 22 to tear or prematurely degrade due to residual stress. In these aspects the Hoganson et al. disclosed covered stent 10 and cover 22 are teachings away from the now recited composite stent with both an inner stent and an outer stent.

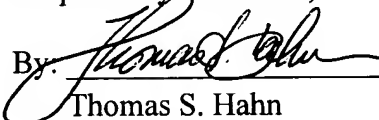
Since dependent claims include all limitations of base claims (35 USC 112, fourth paragraph), it is submitted that all rejected claims distinguish over the asserted Hoganson et al. reference.

CONCLUSION

It is believed that all pending claims, including claim 22 and now submitted new claims 30-35, are in condition for allowance and a notice of the same is requested. Should the Examiner have any questions, requests or suggestions, he is invited to contact the undersigned attorney at the telephone number set out below.

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Respectfully submitted,

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